

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF MICHIGAN

GRG Ventures, LLC d/b/a Game Room
Guys, a Michigan limited liability company,

Plaintiff,

Case No. 18-cv-00755

v.

Hon. Janet T. Neff

DBEC, LLC, a Wisconsin limited liability
company,

Defendant.

Nicholas S. Laue (P79260)
Keller & Almassian, PLC
Attorneys for Plaintiff
230 E. Fulton Street
Grand Rapids, MI 49503
(616) 364-2100

**PLAINTIFF'S VERIFIED EX PARTE MOTION AND BRIEF
FOR ALTERNATIVE SERVICE OF DBEC, LLC**

Plaintiff, GRG Ventures, LLC ("Plaintiff"), by and through its attorneys, Keller & Almassian, PLC, and for its Verified Ex Parte Motion and Brief for Alternative Service of DBEC, LLC ("Defendant") states as follows:

1. On July 9, 2018, Plaintiff filed a Complaint against Defendant. The Complaint alleged trademark infringement and other causes of action with respect to Defendant's business operation.
2. This Court issued a Summons for Defendant on July 10, 2018. Plaintiff has made diligent efforts to serve Defendant, but these efforts have been unsuccessful for the reasons stated below.

PLAINTIFF'S EFFORTS TO SERVE DEFENDANT

3. Upon information and belief, Defendant, is a Wisconsin limited liability company that is in the business of marketing, listing, distributing, and selling games and equipment. Defendant has a registered office at 3700 East Elm Road, Oak Creek, WI 53154. The registered agent for Defendant is David Bates. (**Exhibit A**).
4. A process server made multiple attempts to serve Defendant at the 3700 East Elm Road, Oak Creek, Wisconsin address. Despite the multiple attempts, the process server was unsuccessful in serving Defendant. (**Exhibit B**).
5. On July 12, 2018, the process server met David Bates' wife at the front door. She stated that she was "going to get him." Several minutes later she returned to the door and stated that David Bates was not present. (**Exhibit B**).
6. The process server attempted eight (8) different times to serve Defendant after the July 12, 2018 attempt.

PLAINTIFF SEEKS SUBSTITUTE SERVICE OF DEFENDANT

7. Pursuant to Fed. R. Civ. P. 4(h)(1), a company may be served (1) as provided in Rule 4(e)(1) for serving an individual, i.e. in the manner prescribed by Michigan law, or (2) by delivering a copy to an officer, managing or general agent or other agent authorized by law to receive service of process. As stated herein, Plaintiff has thus far been unable to deliver a copy of the Summons and Complaint on Defendant to a known agent of Defendant in compliance with the court rules.
8. The Michigan Court Rules provide that, "on a showing that service of process cannot reasonably be made as provided [by MCR 2.105], the court may by order permit service

of process to be made in any other manner reasonably calculated to give the defendant actual notice of the proceedings and an opportunity to be heard.” MCR 2.105(I)(1).

9. As demonstrated in this Motion, Plaintiffs counsel has made reasonable and diligent attempts to locate Defendant to serve it with the Summons and Complaint. However, it appears that Defendant is avoiding service.
10. Plaintiff respectfully requests that it be permitted to serve Defendant through publication as well as through first class mailings to the address of its resident agent and its last known business address. Pursuant to MCR 2.106, which governs service of process by publication when a Court orders alternative service under MCR 2.105:

If the court orders notice by publication, the defendant shall be notified of the action by (1) publishing a copy of the order once each week for 3 consecutive weeks, or for such further time as the court may require, in a newspaper in the county where the defendant resides, if known, and if not, in the county where the action is pending . . .

11. Therefore, pursuant to MCR 2.105(I) and the Federal Rules, Plaintiff seeks an order from the Court to permit service of process to be made by:
 - (1) publishing in the manner provided by MCR 2.106(D) a Notice (attached as **Exhibit C**) with the Court’s Order on this Motion once each week for 3 consecutive weeks in the Milwaukee Journal Sentinel, which is located in Milwaukee, Wisconsin in Milwaukee County (the last county in which Defendant was known to reside), and
 - (2) first class mailing of the Notice, the Court’s Order, and the Summons and Complaint to Defendant:

DBEC, LLC
c/o David Bates
3700 East Elm Road
Oak Creek, WI 53154

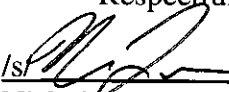
WHEREFORE, Plaintiff respectfully requests that this Court grant its Motion for Alternative Service of Defendant, DBEC, LLC.

VERIFICATION

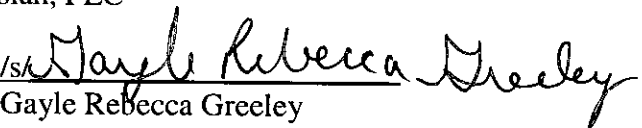
1. Nicholas S. Laue, being first duly sworn, deposes, and states:
2. I am an attorney with Keller & Almassian, PLC.
3. I have read the foregoing document and swear and attest that the facts contained therein are true and correct to the best of my knowledge, information and belief.

August 14, 2018

Respectfully submitted,

/s/ 
Nicholas S. Laue (P79260)
Keller & Almassian, PLC
Attorneys for Plaintiff
230 E. Fulton Street
Grand Rapids, MI 49503
(616) 364-2100

Subscribed and sworn before me in Kent County, Michigan, on this 14th day of August, 2018, by Gayle Rebecca Greeley of Keller & Almassian, PLC

/s/ 
Gayle Rebecca Greeley
Notary Public, Ottawa County
Acting in the County of Kent
My Commission Expires: July 13, 2020.